

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

FILED

FEB 16 2017

MOLLY C. DWYER, CLERK
U.S. COURT OF APPEALS

JAMES KENNETH DAILEY,

Applicant,

v.

UNITED STATES OF AMERICA,

Respondent.

No. 16-71945

D.C. No. 2:03-cr-00128-APG-RJJ-1
District of Nevada,
Las Vegas

ORDER

Before: GOODWIN, FARRIS, and FERNANDEZ, Circuit Judges.

The application for authorization to file a second or successive 28 U.S.C. § 2255 motion makes a prima facie showing for relief under *Johnson v. United States*, 135 S. Ct. 2551 (2015). The application is granted. *See Welch v. United States*, 136 S. Ct. 1257, 1264-68 (2016) (*Johnson* announced a new substantive rule that has retroactive effect in cases on collateral review).

The district court is authorized to proceed with the identical section 2255 motion, protectively filed in case number 2:03-cr-00128-APG-RJJ-1, on June 8, 2016.

The Clerk shall serve this order and the application directly on the chambers of the Honorable Andrew P. Gordon.

No further filings will be entertained in this case.